

REMARKS

The claims of Group II have been elected without traverse. As to the requirement for a species election of a dystrophin cleavage product, Applicant respectfully submits that the fact that such products may not be all “structurally or chemically the same” (Action at paragraph 3) should not serve to limit the scope of the claims under examination.

The present claims are directed to a method for detecting any dystrophin cleavage product and correlating its presence to potential cardiomyopathy in a person. Any known dystrophin epitope, of which there are many, can be the binding partner target for antibodies or Fab fragments utilized in the invention. The question addressed by the invention is not whether dystrophin cleavage products differ in structure, but whether ones detected in a cardiomyopathy patient are indicative of an enteroviral infection. To reach that determination, one would preferably screen for more than one dystrophin cleavage product in a sample. Therefore it is the screening result, not particular molecules identified, that should be the focus of an art search. To limit the examination or claims scope to detection of a single cleavage product would unduly limit the scope of the invention.

Reconsideration and withdrawal of the species election requirement is therefore respectfully requested. In the interim, Applicants have provisionally elected the dystrophin cleavage product produced by enteroviral protease 2A cleavage of the rod domain of dystrophin for the species to be examined.

The Examiner is invited to contact Applicants’ undersigned representative if there are any questions relating to this application.

In re Application of:
Kirk Knowlton *et al.*
Application No.: 10/591,092
Filed: July 12, 2007
Page 3

PATENT
Atty. Docket No.: ST-UCSD3120-1

No fee is believed to be due in connection with this filing. However, the Commissioner is hereby authorized to charge any additional fees that are required, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number.

Respectfully submitted,

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